

## **REMARKS**

Claims 1-19, 27-30, 33, 34, 36 and 37 are all of the pending claims, with claims 1 and 10 being written in independent form. By virtue of this Amendment, Applicants cancel claims 20-26, 31, 32 and 35 without prejudice or disclaimer.

### **I. New Attorney Docket Number:**

The USPTO is respectfully requested to change its records to reflect the new attorney docket number as **9077-000001/US**.

### **II. Restriction Requirement:**

As requested by the Examiner, Applicants affirm the election, *without traverse*, of Group I (claims 1-19, 27-34, 36 and 37).

To advance prosecution, Applicants cancel non-elected claims 20-26 and 35, without prejudice or disclaimer.

### **III. Claim Rejections Under 35 USC § 112(2<sup>nd</sup>):**

The Examiner rejects all of the pending claims under 35 USC § 112(2<sup>nd</sup>) for the reasons noted at pages 3-5 of the Office Action. Applicants amend in part and traverse in part.

As suggested by the Examiner, Applicants amend claims 1-9, 33 and 36 to define a battery including a gasket (as opposed to defining only a gasket).

With respect to the remaining rejections (except for those relating to claim 10), Applicants implement large portions of the Examiner's suggestions to address the Examiner's concerns.

Claim 10 recites "at least two electrochemical cells" and "at least one set of a negative electrode, a biplate and a positive electrode," which the Examiner alleges to be improper. The Examiner apparently believes that a *one-to-one* relationship exists between the battery cells and the set. This is simply incorrect. For example, if a battery contains two battery cells, then only one set of a negative electrode, a biplate and a positive electrode may be present in addition to the negative and positive end terminals. The Examiner's attention is also respectfully directed to Fig. 7. Here, the battery includes five (5) battery cells, but only four (4) sets of a negative

electrode, a biplate and a positive electrode. Certainly then, claim 10 is not internally inconsistent.

Applicants respectfully submit that the claims more particularly point out and distinctly claim the subject matter regarded as the invention, thereby overcoming all of the rejections under 35 USC § 112(2<sup>nd</sup>).

#### **IV. Claim Rejections On Prior Art Grounds:**

The Examiner rejects claims 1-3, 6-12, 15-19, 27-29 and 31-34 under 35 USC §102(b) as being anticipated by US 5,618,641 to Arias (“Arias”); and claims 4, 5, 13, 14, 36 and 37 under 35 USC §103(a) as being obvious over Arias in view of US 5,688,615 to Mrotek et al. (“Mrotek”). Applicants respectfully traverse all of these rejections in view of the following remarks.

##### **A. Independent Claim 1:**

Independent claim 1 recites (among other things) a gasket “at least partially encompassing the peripheral surface of the biplate.” An example, non-limiting embodiment of this feature is depicted in Fig. 2b. Here, the gasket 10 includes a rim 11 that encompasses the peripheral surface of the biplate 12. At least this feature (as recited in claim 1), in combination with the other features recited in claim 1, is not taught or suggested by the prior art relied upon by the Examiner.

The Examiner relies upon Fig. 2b of Arias (and the corresponding description) to teach each and every feature of the invention defined by claim 1. As shown in Fig. 2b, an edge seal 31 is provided between adjacent bipolar plates 20. However, the edge seal 31 is disposed only on confronting *major surfaces* of the bipolar plates 20. The edge seal 31 does *not* encompass any part of the peripheral surface (which faces to the left in Fig. 2b) of the bipolar plate 20.

As demonstrated above, claim 1 recites features that are practically and conceptually different than Arias. Accordingly, the Examiner is respectfully requested to reconsider and withdraw the raised anticipation rejection.

**B. Independent Claim 10:**

Independent claim 10 is somewhat similar to claim 1 to the extent that claim 10 recites (among other things) that the gasket “at least partially encompasses the peripheral surface of the biplate.” Accordingly, claim 10 is believed to be patentable for reasons analogous to those noted above with respect to claim 1.

Furthermore, claim 10 is believed to be patentable because it recites that the biplate “does not include any through holes.” Arias is simply not pertinent because Fig. 2a clearly shows a “gas vent,” which is a hole through the bipolar plate 20. If this were not the case, then gas would not have any passage between adjacent cells.

In view of the above, Applicants respectfully request the Examiner to reconsider and withdraw the raised anticipation rejection of claim 10.

**CONCLUSION**

In view of the above, Applicants earnestly solicit reconsideration and allowance of all of the pending claims.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John A. Castellano at the telephone number listed below.

The Commissioner is authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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By: \_\_\_\_\_

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